

# EXHIBIT B

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

JUAN JOHNSON,	*	
Plaintiff	*	
	*	
vs.	*	
	*	
REYNALDO GUEVARA, and	*	
THE CITY OF CHICAGO,	*	
Defendants	*	NO. 2005 Civil 1042
	***	

Deposition of : ALBERTO RODRIGUEZ

Date : Friday; January 9, 2009  
9:00 a.m.

Place : Conference Room No. 1  
FCI McKean  
Big Shanty Road  
Lewis Run, Pennsylvania 16738

Reported By : Jan M. Merriitt  
Court Reporter & Notary Public

APPEARANCES:

LIZ MAZUR, Esquire  
appeared via telephone on behalf of Plaintiff

CHRISTINA WHITE, Esquire  
appeared on behalf of Defendant City of Chicago

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(OFF-THE-RECORD DISCUSSION.)

ALBERTO RODRIGUEZ, called as a witness,  
was sworn and examined, testified as follows:

DIRECT EXAMINATION

BY MS. WHITE:

Q. Okay, let's get started. Let the record reflect this is the deposition of Alberto Rodriguez taken pursuant to subpoena and the Federal Rules of Civil Procedure in Case No. 05-C-1042, captioned Juan Johnson versus Reynaldo Guevara and the City of Chicago, pending in the U.S. District Court for the Northern District of Illinois.

This deposition is being taken at the McKean Federal Correctional Institute in Lewis Run, Pennsylvania, on January 9, 2009. Present in addition to Mr. Rodriguez are Jan Merriitt, a sworn notary and court reporter; myself, Christina White; and counsel for the Plaintiff, Liz Mazur, is attending by telephone.

The witness has been sworn in. Can you please state your full name and spell your last name for the record?

A. Alberto Rodriguez, R-o-d-r-i-g-u-e-z.

Q. Mr. Rodriguez, have you ever given a deposition before?

A. I'm not sure what a deposition is.

Q. Okay, okay. A deposition is just like this,

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1 where we are sitting in a room, there may be anywhere from one  
2 to any number of attorneys, and the court reporter taking down  
3 what you say. And you are under oath, you have to tell the  
4 truth in the things you say.

5 Depositions are typically taken in cases, typically  
6 civil cases, although they are taken in criminal cases, but in  
7 cases that are pending, prior to the trial.

8 A. Okay.

9 Q. So I hope that explains it for you. And I'm  
10 really only asking at this point because I'm going to go over  
11 some ground rules for the deposition with you. If you had  
12 previously done one, I wouldn't need to go through those  
13 ground rules.

14 A. No, not really.

15 Q. Okay. The rules are pretty easy.

16 A. Okay.

17 Q. Here's the rules. You can see that she is  
18 typing over there, taking down everything we say today, and  
19 she'll take it and put it into a transcript.

20 A. Okay.

21 Q. And because she's typing, we have to answer  
22 verbally. And also, Liz is not here to see if you are nodding  
23 your head. Or if you say uh-huh or huh-uh, it's tough for her  
24 to type down and it's kind of tough for her to tell what your  
25 answer is.

1 A. Okay.

2 Q. So I'm going to ask you a series of questions.

3 Ms. Mazur may ask you a series of questions. And you need to  
4 answer verbally. You need to wait until I'm done with my  
5 question before you answer. I'll do my best not to interrupt  
6 you when you're answering as well.

7 A. Okay.

8 Q. If you don't understand my question, just ask  
9 me and I'll rephrase it or explain it. Okay?

10 A. Okay.

11 Q. But if you answer my question, I'm going to  
12 assume you understood the question. Sound fair?

13 A. Okay.

14 Q. If you need a break for any reason, just ask  
15 and we will go ahead and take a break.

16 And if you hear an objection, just stop, and  
17 Ms. Mazur and I will work it out and advise you what you need  
18 to do. Okay?

19 A. Okay.

20 Q. All right. Can you give me your inmate number?

21 A. 145, 33, 424.

22 Q. And you are currently incarcerated, correct?

23 A. Correct.

24 Q. And where are you incarcerated?

25 A. FCI McKean.

1 Q. That's in Lewis Run, Pennsylvania?

2 A. Yes, ma'am.

3 Q. How long have you been incarcerated here?

4 A. I would say since 2005.

5 Q. What have you been convicted for?

6 A. Racketeering and gun charges.

7 Q. What court were you convicted out of?

8 A. United States Federal Court, Dirksen Building.

9 Q. In Chicago?

10 A. Yeah.

11 Q. And was your conviction in 2005?

12 A. I believe so, yes.

13 Q. Have you been housed anywhere besides FCI

14 McKean during this conviction, this sentence?

15 A. Well, I did some -- my pretrial in MCC Chicago.

16 Then I went to several county jails as well before I got here.

17 Q. Were those all in Illinois?

18 A. Wisconsin, Illinois.

19 Q. Do you recall the names of those county jails?

20 A. I believe one was Freeport County, and one was  
21 Kenosha County. Dodge County. That's all I remember for now.

22 Q. All right. What is your sentence?

23 A. I got 25 years.

24 Q. What was your address prior to incarceration?

25 A. Well, I didn't have an address. Actually, I

1 was just staying with relatives here and there.

2 Q. Do you recall your address in May of 1995?

3 A. Might have been 2717 North Hoyne.

4 Q. Did you rent or own that?

5 A. I was staying with my relatives there.

6 Q. Which relatives?

7 A. My mom.

8 Q. What's your mom's name?

9 A. Maria Rodriguez.

10 Q. How long did you stay with your mom on Hoyne  
11 Street?

12 A. Pretty much stayed with her mostly all the  
13 time. Really long time.

14 Q. Would you say years?

15 A. Yeah, many years.

16 Q. What's your date of birth?

17 A. 6/19/73.

18 Q. What's your Social Security?

19 A. 35 -- I'm not sure. 353-62 -- or 64-6218.

20 Q. What is your marital status?

21 A. Single.

22 Q. Have you ever been married?

23 A. No. I have children.

24 Q. How many children do you have?

25 A. Two children.

1 Q. And can you give me their names and ages?

2 A. Xavier and Alberto.

3 Q. Are their last names Rodriguez?

4 A. Yes, ma'am.

5 Q. How old is Xavier?

6 A. Xavier is 11 and Alberto is 12.

7 Q. Are you on any medications today that would  
8 interfere with your ability to answer my questions honestly?

9 A. No.

10 Q. Are you on any medications today that would  
11 interfere with your ability to understand my questions?

12 A. No.

13 Q. Do you have any convictions previous to the one  
14 you're currently serving your sentence for?

15 A. Yeah, I believe so. I think I have a gun  
16 charge and a drug charge, if I am not mistaken.

17 Q. Were the drug and gun charge tried together, or  
18 did you plead to them together?

19 A. Well, I took the drug charge to trial. And the  
20 gun charge, I pled guilty.

21 Q. Let's start with the gun charge. Do you  
22 remember when that trial occurred?

23 A. I would say around maybe '96. Maybe.

24 Q. Which court was that in?

25 A. Cook County.



1 Q. State court?

2 A. Yes.

3 Q. What was your sentence on that?

4 A. On the drug charge?

5 Q. On the gun charge.

6 A. Gun charge? I took the drug charge to trial  
7 and I had pending the gun charge, so when I pled guilty for  
8 the gun, they ran them together and gave me probation.

9 Q. Okay, I think I might --

10 A. Two years probation.

11 Q. I apologize for interrupting. I think I might  
12 have written my notes wrong. Which one did you take to trial?

13 A. The drug charge.

14 Q. What was the sentence that they gave you for  
15 both of them together? It was probation?

16 A. Probation, two years probation.

17 Q. Were you ever incarcerated at all relating to  
18 the drug and gun charges in 1996?

19 A. Yeah. I did -- when I lost my trial for the  
20 drug charge, I did maybe almost a month in Cook County Jail.  
21 I was detained when I lost the trial.

22 Q. Have you ever been arrested by the Chicago  
23 Police Department?

24 A. Yes.

25 Q. How many times?

1 A. Several times.

2 Q. Would you say more than five?

3 A. Yes.

4 Q. Would you say more than ten?

5 A. Yes.

6 Q. More than 15?

7 A. Maybe around there.

8 Q. Do you know if you were ever arrested by an  
9 officer named Reynaldo Guevara?

10 A. No. I don't know officers' names.

11 Q. That was going to be my next question. Do you  
12 know of a Chicago police officer named Rey Guevara?

13 A. Not that I can remember.

14 Q. Well, as you may have heard me state earlier,  
15 he's a defendant named in this case.

16 A. Uh-huh.

17 Q. So if later on you think you may remember him  
18 or may know him, just let me know. But as you sit here right  
19 now, you don't know who that is, correct?

20 A. What's the name there?

21 Q. Rey Guevara?

22 A. Rey Guevara?

23 Q. Uh-huh. Have you ever heard any of your cell  
24 mates at any time you have been incarcerated discuss a Chicago  
25 police officer named Rey Guevara?

1 A. No.

2 Q. As a result of any of your arrests, did you  
3 ever file any complaints regarding treatment during your  
4 arrest or incarceration?

5 A. Which incarceration?

6 Q. Any time you were incarcerated by the Chicago  
7 police department. I think once you were held at Cook County  
8 Jail, another time MCC, which really isn't --

9 A. No, no.

10 Q. Have you ever been physically abused during any  
11 of your arrests?

12 A. Well, yeah. But it was for refusing to be  
13 arrested for disorderly conduct.

14 Q. Any other times?

15 A. Not that I recall.

16 Q. And what was the last grade of education you've  
17 completed?

18 A. Eighth grade.

19 Q. Which city was that in?

20 A. Chicago, Illinois.

21 Q. Do you know how to read and write?

22 A. A little bit.

23 Q. Where were you employed prior to your  
24 incarceration?

25 A. I really didn't seek too much employment. I

1 was just basically self-employed.

2 Q. What were you doing being self-employed?

3 A. Like painting people's houses, working on cars,  
4 stuff like that.

5 Q. Have you ever filed a lawsuit against anyone?

6 A. No.

7 Q. Have you ever had anyone file a lawsuit against  
8 you?

9 A. (No response.)

10 Q. Besides the criminal charges we have already  
11 discussed.

12 A. No.

13 Q. Have you ever testified in court?

14 A. Yes. On this case I believe it was.

15 Q. Any other times?

16 A. No.

17 Q. Do you understand the oath you took a few  
18 minutes ago?

19 A. I believe so.

20 Q. And you understand that means you have to tell  
21 the truth today?

22 A. Yes.

23 Q. Do you wear glasses?

24 A. No.

25 Q. Have you ever worn glasses?

1 A. No.

2 Q. Have you ever been a member of a gang?

3 A. Yes.

4 Q. Which gang?

5 A. The Latin Kings.

6 Q. Are you in a gang today?

7 A. No. I have grown up from that. I mean, I was  
8 a family man before I got arrested. I'm into my children and  
9 trying to do better for my children, not giving them the  
10 lifestyle that I lived.

11 Q. How old were you when you joined the Latin  
12 Kings?

13 A. Umm, I would say since maybe '87, '88.

14 MS. MAZUR: Can I just ask the witness to speak up a  
15 little bit? I'm having a little bit of a hard time hearing  
16 him.

17 THE WITNESS: Yes, ma'am.

18 MS. MAZUR: Thank you very much.

19 BY MS. WHITE:

20 Q. Do you remember what year -- well, did you  
21 formally quit the Latin Kings?

22 A. Yes, I did.

23 Q. Do you remember what year that was?

24 A. I believe it was '96, '97.

25 Q. And is there some sort of process for leaving

1 the gang?

2 A. Yes, there is a process of --

3 Q. Can you tell me about that?

4 A. Well, you got to get beat up in order to get  
5 out of the gang.

6 Q. Did you have to get beat up to leave?

7 A. No, I just left, left Chicago. Left Chicago.

8 Q. Where did you go when you left Chicago?

9 A. To Florida.

10 Q. Why Florida?

11 A. That's where my kids' mom stayed at, so that's  
12 where I went. My kid was just born and everything. I figured  
13 I don't need this, I don't need the trouble and this stuff  
14 anymore. I felt I was tired of it and I didn't want that  
15 lifestyle anymore.

16 Q. Did anyone from the gang contact you after you  
17 left and moved to Florida?

18 A. Well, they -- they -- I had to come back for  
19 court, because I had a court case. I was coming back for  
20 court and they had contacted me because they had seen me  
21 around. Yes, they had contacted me.

22 Q. Which faction or neighborhood of the Kings were  
23 you a member of?

24 A. Diversey and Hoyne.

25 Q. Are the Kings members of the Folks or the

1 People?

2 A. They're People.

3 Q. And were there any other gangs that your  
4 faction was friendly with at that time? Well, I'm going to  
5 direct your attention to 1995. Are there any other gangs that  
6 your gang was associated with?

7 A. Well, the Kings have many allies. That I know  
8 of, we didn't have any trouble with any of the allies then.

9 Q. Can you tell me the names of a couple of the  
10 other gangs that were allies?

11 A. I would say like Spanish Lords, Unknowns, Black  
12 P-Stones.

13 Q. And are they all People as well?

14 A. Yes.

15 Q. Let's talk about some of the enemy gangs that  
16 you guys had around 1995. Who were general enemies of the  
17 Kings?

18 A. Well, a lot of people didn't like the Kings,  
19 you know. They could even have been up to a family member or  
20 someone, I can't say. There was many people who hated the  
21 Latin Kings.

22 Q. That's fair. Were you actively warring with  
23 any other gangs in 1995?

24 A. I don't understand the question.

25 Q. Were you at war? I know sometimes gangs have

1 wars.

2 A. I wouldn't call it war. But I would say if we  
3 were to see each other, he might, he might know me or I might  
4 know him, or whatever, there might have been a conflict or  
5 something.

6 Q. Were there any specific gangs you were having  
7 those kinds of conflicts with?

8 A. No.

9 Q. What was your faction's relationship with the  
10 Imperial Gangsters in 1995?

11 A. I would say they were in opposition to the  
12 Latin Kings.

13 Q. How about a gang called the OA's or the  
14 Orchestra Albany?

15 A. I heard of them.

16 Q. Do you know if your gang was or what the  
17 relationship was between your gang and that gang?

18 A. We're in opposition to 'em.

19 Q. Did you ever hold rank in your gang?

20 A. No.

21 Q. Did your gang have a hand symbol that you used?

22 A. Yes.

23 Q. What was the purpose of having a hand signal?

24 A. To recognize the gang that you're in.

25 Q. How many people were in your faction of the



1 Kings?

2 A. Umm, that's hard to tell because people get  
3 arrested and people be there one time or maybe show up for a  
4 little bit, next thing you know they just disappear. So I  
5 really can't come up with a number, but I would say around  
6 maybe 20, 25.

7 Q. Who was the leader back then?

8 A. I can't remember.

9 Q. What were the streets that bounded your  
10 neighborhood for -- was it just in the Lathrop Homes or --

11 A. Yeah.

12 Q. So your territory didn't really go beyond the  
13 Lathrop Homes area?

14 A. No.

15 Q. Which gangs were on the other end of your  
16 territory?

17 A. I would say there was Deuces, Insane Deuces.

18 Q. Which way were they from you? North? South?  
19 If you remember.

20 A. I'd say like south.

21 Q. Any other gangs you can remember bordering your  
22 area?

23 A. Nah, they were like the only ones around.

24 Q. Did you fight with the Insane Deuces?

25 A. Yes.

1 Q. What did your gang typically fight with their  
2 gang about?

3 A. Just -- just about, you know, looking at each  
4 other the wrong way or -- because they were an ally of ours as  
5 well. But it was just minor stuff.

6 Q. I'm going to direct your attention to a  
7 shooting that occurred on May 23, 1995. Do you recall the  
8 shooting that I am talking about?

9 A. I believe it's -- I believe it's the shooting  
10 when I was in the car with two friends of mine? We were shot  
11 at.

12 Q. Okay.

13 A. Yeah.

14 Q. Okay. And do you remember the date? If I  
15 represented to you it was May 23, 1995, do you have any reason  
16 to dispute that?

17 A. No, I don't dispute it, because I don't  
18 remember the exact date.

19 Q. Do you remember the time?

20 A. I know it was dark out. Kind of dark.

21 Q. If the police report said it was approximately  
22 10:30, would you have reason to dispute that?

23 A. No.

24 Q. I'm going to ask you some questions about the  
25 shooting, but before that I want to ask you what you were

1 doing earlier in the day before the shooting.

2 A. (Nods head.)

3 Q. Can you tell me what you were doing?

4 A. I don't know how far.

5 Q. It was at 10:30, so let's say earlier in the  
6 evening.

7 A. Well, I believe I was at home. I was at home.  
8 And me and my friend Nuni were at my house, just hanging out.

9 Q. Let's talk about Nuni. What was Nuni's given  
10 name?

11 A. I think it was Noel Andujar.

12 Q. Is it spelled --

13 A. I'm not sure.

14 Q. And how did you know Nuni?

15 A. We kind of like grew up in the same  
16 neighborhood.

17 Q. How long had you known him?

18 A. Several years.

19 Q. I'm sorry, did you say several or seven?

20 A. Several. Several years.

21 Q. And did he have any other nicknames besides  
22 Nuni?

23 A. No.

24 Q. Did he still live in your same neighborhood in  
25 1995?

1 A. I don't think so.

2 Q. Do you know where he lived?

3 A. No.

4 Q. Was Nuni a member of a gang?

5 A. Yes, ma'am.

6 Q. Which gang?

7 A. The Latin Kings.

8 Q. Was that the same Lathrop Homes faction that  
9 you were a member of?

10 A. Yes.

11 Q. Did Nuni hold rank?

12 A. No.

13 Q. What were you and Nuni doing at your house on  
14 the evening of May 23rd?

15 A. I was actually on the phone and he had passed  
16 by and I told him to come in. He wanted to go for a ride or  
17 whatever. I told him to step in for a second because I was on  
18 the phone with a friend of mine that was incarcerated in the  
19 Cook County. So I was talking to him on the phone and I  
20 didn't want to just hang up on him, so I asked him to come in.

21 Q. And while he was at your house did you guys  
22 drink any alcohol?

23 A. No, I don't think so.

24 Q. Did you take any drugs?

25 A. Yes.

1 Q. Which drugs?

2 A. Marijuana.

3 Q. How much?

4 A. Maybe a joint or whatever.

5 Q. So the two of you might have shared a joint?

6 A. Yes.

7 Q. And a joint is a marijuana cigarette?

8 A. Yes.

9 Q. And at some point in time did someone or did  
10 any of your other friends come over to your house?

11 A. Yes, another friend of mine had came by. He  
12 also wanted to go for a ride or whatever. I told him give me  
13 a second so I can hang up the phone with the friend of mine I  
14 was talking to.

15 Q. Tell me about this friend who came to your  
16 house. What was his name?

17 A. I called him by the name Macho.

18 Q. Do you know his given name?

19 A. No.

20 Q. If I told you the police report states his  
21 given name is Jose Melendez, would you have any reason to  
22 dispute that?

23 A. No.

24 Q. How did you know Macho?

25 A. I met him several years back as well.

1 Q. From the neighborhood?

2 A. You could say that.

3 Q. Well, how would you say it?

4 A. Well, from another branch of the Latin King  
5 neighborhood. I met him over there.

6 Q. So was he a member of the Latin Kings?

7 A. Yes.

8 Q. Which branch was he a member of?

9 A. I think he was Spaulding. Spaulding Street.

10 Q. Did that Spaulding Street group have a cross  
11 street that you know of?

12 A. What do you mean by a cross street?

13 Q. Sometimes I have heard of gangs, when they have  
14 a neighborhood that's a street and a street, they'll say both  
15 cross streets. Do you know where at on Spaulding?

16 A. It might have been Beech and Spaulding. I just  
17 know Spaulding.

18 Q. Okay.

19 A. Yeah.

20 Q. Okay. Do you know if Macho had rank in the  
21 Spaulding Latin Kings?

22 A. No.

23 Q. I'm sorry. You don't know, or no, he did not  
24 have rank?

25 A. I don't know if he had rank or not.

1 Q. Do you still talk to Macho?

2 A. No.

3 Q. When was the last time you talked to him?

4 A. Wow, I can't remember. It's been a long time.

5 Q. Would it have been years?

6 A. Yes.

7 Q. Do you know where he lived at the time?

8 A. No.

9 Q. So you guys decided you were going to go for a  
10 ride, you said, correct?

11 A. Yes, uh-huh.

12 Q. Whose car did you take?

13 A. We went in Macho's car.

14 Q. Could you describe Macho's car?

15 A. I think it was a Cutlass. I'm not sure what  
16 year it was.

17 Q. Do you know what color it was?

18 A. It might have been like a sky blue maybe.

19 Q. Do you know what time it was when Macho came to  
20 your house?

21 A. No.

22 Q. Did you guys go for rides often?

23 A. Once in a blue moon.

24 Q. What was the purpose of going for a ride?

25 A. He just happened to pass by. You want to go

1 for a ride, whatever, hang out.

2 Q. Did you usually do anything while you were on  
3 your ride?

4 A. Yeah, we might smoke a couple of marijuana  
5 cigarettes.

6 Q. You can call them joints if that's what you  
7 call them. I just wanted to state that for the record  
8 earlier.

9 A. Yeah. A couple of joints.

10 Q. What gang controlled your neighborhood?

11 A. Controlled the neighborhood?

12 Q. Would that be the Latin Kings?

13 A. Yes.

14 Q. And do you remember what time you guys left to  
15 go on a ride?

16 A. No.

17 Q. Do you remember where you went on your ride?

18 A. Well, we were headed towards Logan. We were  
19 just -- just riding.

20 Q. Do you remember if you went through any other  
21 gang's neighborhood?

22 A. Well, when you drive down Chicago, you pass  
23 many gangs' neighborhoods because there is so many gangs in  
24 Chicago.

25 Q. Were you specifically trying to go through any



1 particular gang's neighborhood?

2 A. No. We were just --

3 Q. Were you specifically trying to avoid any other  
4 gang's neighborhood?

5 A. We were always trying to avoid crashing with  
6 opposition neighborhoods or people. To avoid trouble. Our  
7 intention wasn't to pass through anybody's neighborhood or  
8 start any trouble or anything. We were just passing by.

9 Q. Did you guys smoke any marijuana in the car  
10 while you were riding around?

11 A. Yes.

12 Q. How much did you personally smoke?

13 A. Myself?

14 Q. Yes.

15 A. Well, we shared two joints all together.

16 Q. Between the three of you?

17 A. Yes.

18 Q. And all three of you smoked?

19 A. Yes.

20 Q. And did the amount of marijuana that you smoked  
21 that day impair your ability to understand what was going on?

22 A. Well, somewhat.

23 Q. This is going to be a tough question, but can  
24 you tell me to what degree you think it impaired your ability?  
25 I don't know how you can best describe it.

1           A.     Wow. I can't really describe it, but, you  
2 know, it's just like, you know, just the typical buzz. Maybe  
3 like maybe just drinkin' a couple beers or something like  
4 that.

5           Q.     You had smoked marijuana before that day;  
6 correct?

7           A.     Yes.

8           Q.     Were you in control of your actions that day,  
9 after smoking the marijuana?

10          A.     Well, I tried to stay in control. I don't know  
11 if I was in control, but -- I always tried my best.

12          Q.     Did the amount you had smoked impair your  
13 ability to see clearly?

14          A.     I don't think so.

15          Q.     Do you know if you guys were going anywhere in  
16 particular at the time of the shooting?

17          A.     No, we were just riding, just cruising.

18          Q.     Where was everyone seated in the car?

19          A.     Macho was driving. I was in the passenger seat  
20 and Nuni was in the back seat.

21          Q.     Do you recall whether he was in the driver's or  
22 passenger's side of the back seat?

23          A.     He was kinda like in the middle.

24          Q.     Did you guys have any weapons in the car?

25          A.     No.

1           Q.    Do you know if anyone had any weapons on their  
2 person?  Actually on them?

3           A.    No.

4           Q.    What was the conversation while you guys were  
5 driving around?

6           A.    Well, it wasn't really any conversation.  We  
7 just, you know, joked around and listened to music.

8           Q.    Was anyone drinking alcohol in the car?

9           A.    I don't think so.

10          Q.    Okay.  Can you tell me what you remember about  
11 the shooting?

12          A.    Well, I think from when it started, we were  
13 just -- we stopped at a red light.  And Macho had tapped me on  
14 the side because we had the radio up.  So when he tapped me on  
15 the side, I looked at him and he pointed toward the car on his  
16 left side.  So when I looked, I see, I see people in there.  
17 And there is like some type of tinted window on it.  And  
18 they're throwing gang signs.

19                At that point I tried to keep my eye on them and see  
20 what they are up to, because -- it could have been something  
21 serious going on, or, you know, the reason he tapped me was  
22 because he wanted me to keep my eye on them in case these guys  
23 start shooting or anything.  So I kept my eye on them.

24                They were throwing gang signs or whatever.  At first  
25 I seen the one individual, the guy on the passenger seat,

1 throw a hood over his head. And when he put the hood over his  
2 head, he like started acting like he goin' do somethin' or  
3 whatever. So I'm like, you know, I'm saying to myself who is  
4 this guy. So I happened to have a hood as well, so I put my  
5 hood on and I'm trying to act like, you know, what, you know,  
6 what you wanna do, you put your hood on, I put my hood on.  
7 You know, what's going on?

8 So anyway, the light happened to turn green and  
9 that's when we took off. The shooting started to occur.

10 Q. Okay. I'm going to stop you there and ask you  
11 a few questions.

12 A. Uh-huh.

13 Q. Do you remember what street corner you were at?

14 A. I think it was Logan and -- umm, umm --

15 Q. If the police report said it was Logan and  
16 Milwaukee, would you have any reason to dispute that?

17 A. No.

18 Q. Was there lighting around the corner?

19 A. Yes, there's street lights.

20 Q. Were they on that night?

21 A. Yes.

22 Q. Do you recall, was that a four-way intersection  
23 or were there multiple streets that came together there?

24 A. I believe there is like a one-way and a two-way  
25 going across.

1 Q. (Nods head.)

2 A. Uh-huh.

3 Q. And can you describe the neighborhood around  
4 that? Was it residential or business?

5 A. I would say residential.

6 Q. Did you see any people around there when you  
7 guys were stopped at the light?

8 A. No.

9 Q. Do you recall which street you were actually  
10 driving on? Were you actually on Logan Street?

11 A. We were actually on Logan, yeah.

12 Q. Do you recall which direction you were going?

13 A. We were going the direction like (indicating).  
14 I'm not sure. I'm not good with my south, west, east,  
15 whatever.

16 Q. That's fair enough.

17 A. Yeah.

18 Q. Besides the car that did the shooting, do you  
19 recall if there were any other cars stopped at the stop light?

20 A. Well, just -- there might have been cars behind  
21 us. I'm not sure. My attention was on the car on my  
22 left-hand side.

23 Q. How many lanes was Logan Street that you were  
24 on?

25 A. I would say maybe around four lanes going one

1 way. Going --

2 Q. Were there two in each direction or were there  
3 four in each direction?

4 A. Like one, two, three, four, going  
5 straightforward. Then there was a cross street that was  
6 (indicating), you know, traffic going both ways.

7 Q. Which lane was your car in?

8 A. We were like in the -- from the left, maybe the  
9 third lane.

10 Q. Do you know which gang controlled that  
11 neighborhood?

12 A. No.

13 Q. Did you know at the time?

14 A. If I knew at the time?

15 Q. Yes. Do you know if you knew at the time?

16 A. Well, I knew there was like maybe a few gangs  
17 there maybe controlled the area, but I'm not sure which gang.

18 Q. So it wasn't like a big known gang hangout to  
19 you?

20 A. It wasn't a hangout street type --

21 Q. Where was the other vehicle when you first saw  
22 it?

23 A. On my left-hand side.

24 Q. Was it already stopped at the light?

25 A. Yes.

1 Q. Did you say anything about the vehicle when you  
2 first saw it?

3 A. No. Macho had pulled my attention to the  
4 vehicle.

5 Q. Do you remember if Macho said anything to you  
6 when he pulled your attention to the vehicle?

7 A. He might have just said keep your eye on the  
8 car, whatever.

9 Q. Was that car in the immediate lane right to the  
10 left of your car?

11 A. Pretty close.

12 Q. How many feet away from you would you say the  
13 car was?

14 A. I'm not good with feet and foots and stuff like  
15 that. I would say it was just maybe side to side.

16 Q. Can you describe that other car for me?

17 A. Umm, it was like a dark blue. I think it was a  
18 Park Avenue. A dark blue Park Avenue I think it was.

19 Q. You said you noticed the windows were tinted  
20 before, right?

21 A. Yes.

22 Q. Were they dark tinted or lighter reflective  
23 type tinting?

24 A. It was like a lighter tint.

25 Q. Were the windows up or down on the car when you

1 saw it?

2 A. Up.

3 Q. You could still see through the tint to see  
4 inside it?

5 A. Yes.

6 Q. Did you notice any distinguishing marks about  
7 the car?

8 A. No. I just -- my attention was mostly on the  
9 individuals in the car.

10 Q. Did you notice anything about the tires?

11 A. They had like some hubcaps, spokes.

12 Q. Did you notice how many doors the car had?

13 A. A four-door.

14 Q. Did you see the license plate?

15 A. No.

16 Q. How many people did you see in the other car?

17 A. I would say three people.

18 Q. Okay. I'm going to ask you to describe each  
19 one for me. Let's start with the passenger. Can you give me  
20 a description of the passenger?

21 A. Not too good of a description because of the  
22 tinted window. I couldn't tell if he had a mustache or not.  
23 Umm, I know they were Hispanic.

24 Q. How about the driver?

25 A. I would say he was Hispanic as well.



1 Q. And the third person in the car, where was that  
2 person sitting?

3 A. In the back seat.

4 Q. Were you able to see that person?

5 A. My attention was basically on the passenger on  
6 the front seat of the vehicle. I really wasn't -- not too  
7 much attention to the back seat.

8 Q. You said the passenger had a hood. Correct?

9 A. Yeah.

10 Q. Was he wearing a hooded sweatshirt?

11 A. Yes.

12 Q. What color was that?

13 A. I'm not sure. It might have been black.

14 Q. I know it's been a few years. Is it possible  
15 you knew at the time and now you just don't really remember  
16 what color it was?

17 A. I don't remember what color it was.

18 Q. And you said that you saw people in the other  
19 car throwing gang signs. Right?

20 A. Yes.

21 Q. Did you see all three of them throwing gang  
22 signs?

23 A. Like I said, I was just focusing on the  
24 passenger.

25 Q. You definitely saw the passenger throwing gang

1 signs?

2 A. Yeah.

3 Q. And it's possible the other two were throwing  
4 gang signs?

5 A. (No response.)

6 Q. Or you just don't know?

7 A. I don't know.

8 Q. Do you remember what gang signs they were  
9 throwing?

10 A. Well, he was throwing down the crown. Which is  
11 the Latin King hand signal.

12 Q. You mean the crown was the Latin King gang  
13 symbol?

14 A. Yeah.

15 Q. Correct?

16 A. Yes.

17 Q. What does throwing down the crown mean?

18 A. It means just like a disrespect to the Kings.

19 Q. Earlier you had said the general purpose of  
20 hand signals is to -- I don't remember. I think you said to  
21 identify yourself. Correct?

22 A. Yes.

23 Q. And so is it possible then to represent  
24 yourself as friendly to others using gang hand symbols?

25 A. Well, the reason for the signal is just to know

1 what gang you're in. You know? Different gangs have  
2 different hands signals. It's just to identify.

3 Q. So you could identify yourself as friendly to  
4 another gang? You know, if you saw another neighborhood of  
5 Latin Kings on the street and you put the crown up --

6 A. Yeah.

7 Q. -- that would identify you as friendly to them?

8 A. Yes.

9 Q. Correct?

10 A. Yeah.

11 Q. However if you saw a group of another gang, or  
12 a group of Latin Kings, and you put the crown down, that would  
13 be antagonistic to them?

14 A. What's that mean?

15 Q. Sure. That means like enemies or not friends  
16 of them.

17 A. Yes.

18 Q. And had anyone in your car shown them the crown  
19 with your hands to identify yourselves as Kings?

20 A. No, we didn't identify ourselves as Kings.

21 Q. Was it common for people to throw the crown  
22 down, to a, you know, a carful of people who they didn't know?

23 A. Well, like I said before, there is many gangs  
24 and I would say the majority of gangs in Chicago don't like  
25 the Kings and that's their way of showing disrespect or to

1 identify who the person may be. Even if you don't throw a  
2 gang signal up or -- it could be anyone, even a woman in a  
3 car, and an individual might throw it down to her thinking she  
4 might be a part of a gang or whatever. It's just -- it's  
5 crazy.

6 Q. Did you see -- did you see if he was making any  
7 other signs besides throwing the crown down?

8 A. He was basically just throwing the crown down.  
9 Disrespecting in other words.

10 Q. Did you see -- well, well, let's start with  
11 this. Did you make any hand signals back at that car?

12 A. I'm not -- I don't recall me throwing a hand  
13 signal, but I do remember I put my hoodie on. I put my hood  
14 on as well.

15 Yeah, I put my hood on, but I don't think I threw no  
16 gang signals.

17 Q. Do you know if anyone else in your car threw  
18 any gang signals? If Nuni or Macho did?

19 A. No, I don't know.

20 Q. Did they, or specifically the passenger, did he  
21 continue to throw signs for the entire time you were stopped  
22 at the red light?

23 A. Well, from the point where I got my attention  
24 to where Macho, you know, pointing me to the attention of the  
25 vehicle, I tried to keep my eye on them because their behavior

1 that he was showing. So I looked at him as threatened. So I  
2 kept my eye on him. And he was just basically trying to act  
3 like a bad, you know, bad ass. In other words, like trying to  
4 show off, tough guy, whatever.

5 Q. Were the windows in your car up or down?

6 A. Up.

7 Q. And then you said once the light turned green,  
8 then the shooting started. Correct?

9 A. Yes.

10 Q. Did you see if anyone in the other car reached  
11 for a gun?

12 A. No.

13 Q. Did you see the gun before the shooting  
14 started?

15 A. No.

16 Q. Do you know if anyone else in your car saw the  
17 gun?

18 A. I don't know.

19 Q. Did you hear anyone in the car say anything?  
20 You know, like there's a gun, or anything like that?

21 A. No.

22 Q. Did you see how many people in the other car  
23 had guns?

24 A. No.

25 Q. And what did Macho do? He was driving,

1 correct?

2 A. Uh-huh.

3 Q. What did he do when the shooting started?

4 A. Well, when the shooting started, I ducked down.  
5 I wasn't sure how close they were to our vehicle. I heard  
6 many shots hit the vehicle. It was like non-stop, the  
7 shooting.

8 At one point I tried to grab the steering wheel from  
9 Macho and try to turn it towards the direction of the other  
10 car that was shooting at us, so that maybe it would throw them  
11 off from shooting at us. When I did that, he jerked the wheel  
12 the other way, towards the right. At that point we ended up  
13 going down a two-way street which was Wrightwood Street.

14 Q. So you were driving down Wrightwood Street?

15 A. Yes.

16 Q. Do you know how many shots you heard?

17 A. Wow, it was many. Lots of shots.

18 Q. You said you heard -- you said you heard many  
19 shots. Do you know if the shots were hitting your car?

20 A. Yes.

21 Q. How do you know that?

22 A. Well, the windows were coming down, you could  
23 hear it going all through inside the car, through the metal  
24 and everything.

25 Q. At the time the shooting was going on, did you

1 know whether anyone in your car was hit?

2 A. No, I didn't know if anyone was hit.

3 Q. Could you hear anyone yelling as the shots were  
4 going on, either in your car or from the other car?

5 A. Well, it was just like a -- it was like a  
6 moment as far as like shock, and at the same time like freaked  
7 out as far as -- you know, maybe like I ducked down or, you  
8 know, like -- I really can't recall as far as what was being  
9 said, but everyone was basically trying to take cover. Yeah.

10 Q. And so you said then your car turned down  
11 Wrightwood Street. Correct?

12 A. Yes.

13 Q. Were they still shooting when you turned on  
14 Wrightwood Street?

15 A. Yes.

16 Q. And did the other car turn down Wrightwood  
17 Street with you?

18 A. Yes, I would say so because when we turned on  
19 Wrightwood Street, the bullets kept hitting the car.

20 Q. And how far driving down Wrightwood Street did  
21 the bullets continue hitting the car?

22 A. Well, to the next street. I would say to the  
23 next street. The first street we ran into, I would say that  
24 was the last point as far as them shooting at us.

25 Q. Did you see where the other car or if the other

1 car went somewhere after the shooting stopped?

2 A. No. I was basically on the bottom of the front  
3 seat taking cover.

4 Q. Do you recall which direction your car went  
5 then after you said you went down Wrightwood? Do you remember  
6 if you turned right or left?

7 A. On Wrightwood we made a right turn.

8 Q. Okay. Do you remember where you went  
9 immediately after Wrightwood, which direction?

10 A. We turned down Wrightwood. He had went down  
11 Wrightwood and turned on the first street, making a right  
12 turn.

13 Q. Where did you ultimately go after the shooting?

14 A. (No response.)

15 Q. Or what happened next?

16 A. Well, I don't think it was the first street,  
17 but I think it was the first big street we had made a right  
18 turn. I'm not sure if it was maybe Kimball or something like  
19 that, we had made a right turn. Which way the vehicle went  
20 after that? It might have made a left turn, might have went  
21 going straight. I'm not sure.

22 Q. Did you later find out someone in your car had  
23 been hurt?

24 A. Well, Macho had, after making the right turn,  
25 Macho had said they're gone. And we went into an alley, went



1 in and reversed out and headed back the direction we was in.  
2 And he -- he -- he -- he stated are you okay. And I'm feeling  
3 on myself to see if I am bleeding or anything. I said yeah,  
4 I'm okay.

5 Then I looked towards the back seat to actually, to  
6 ask Nuni if he's okay. And he was just like crunched up, like  
7 bent over, forward, and he didn't say anything. So I moved  
8 him back some. I pushed him back some and then his head like  
9 went back and then just nodded back forward. And when it  
10 nodded forward, I saw that he had like a, had like a -- it  
11 looked like he had a cut on the side of his head.

12 Q. Did Nuni ever respond to you?

13 A. No.

14 Q. And what did you do when you realized that Nuni  
15 had been shot?

16 A. I was -- I was shocked. That he wasn't  
17 responding and -- from, from where I saw that he was shot -- I  
18 was really shocked. I was trying to like wake him and scream  
19 at him and see if he could get any of my attention, but he --  
20 he -- he was just gone. You know?

21 Q. Did you and Macho try and get Nuni some help?

22 A. Yeah. Immediately after he wouldn't respond or  
23 anything, I told Macho let's go to a hospital as quick as  
24 possible. And so we did. And what we did was we tried to  
25 head towards the closest hospital possible, and we were

1 stopped by a police officer. On Fullerton and Logan, we were  
2 stopped. We were beating red lights, stop signs, everything,  
3 trying to rush to a hospital, to a near hospital.

4 Q. And how long was this after the shooting that  
5 you guys stopped for the police officer?

6 A. Within a few minutes.

7 Q. Do you remember the name of the officer?

8 A. No. It was a blue and white officer. I don't  
9 know his name.

10 Q. Can you give a physical description of him?

11 A. No.

12 Q. And did an ambulance come to the scene?

13 A. Yes, an ambulance.

14 Q. Did they take Nuni to the hospital?

15 A. Yes.

16 Q. Did other police vehicles come to the scene?

17 A. Yes.

18 Q. How many?

19 A. I would say many. Many of them.

20 Q. Do you know how long it took, you know, for all  
21 these other vehicles to come to the scene?

22 A. Police officers?

23 Q. Yeah.

24 A. Within minutes.

25 Q. Did you and Macho talk to officers at the

1 scene?

2 A. Yeah, we talked to the officer that had pulled  
3 us over. He wanted to know why all the windows were off of  
4 the car and all the bullet holes in the side. And we told  
5 them we're trying to get to the nearest hospital, we have just  
6 been shot at and my friend is possibly losing his life at the  
7 moment, so we're trying to get him to the hospital. At that  
8 point he said just park the car and get out of the car and all  
9 that. And I guess he called the ambulance and backup,  
10 whatever. I don't know. Whatever.

11 Q. Did you talk to officers at the scene about the  
12 shooting after Nuni had been taken to the hospital? Did you  
13 remain on the scene?

14 A. Yes, I remained on the scene. I went to make a  
15 quick phone call. I called the house and I told my mom we had  
16 just been shot at and we were pulled over at the moment and  
17 Nuni is maybe passed away. And I just told her what was my  
18 situation at that point and what was going on.

19 Q. I'm sorry, where did you go to make that phone  
20 call?

21 A. There was a laundromat that was right on the  
22 corner.

23 Q. And then after you made your phone call did you  
24 speak with the officers about what had happened with the  
25 shooting at the scene?

1           A.     Well, they asked questions, what happened,  
2     where was the shooting taken place. They asked if we were  
3     shooting at them. They asked several questions.

4           Q.     What did you tell them when they asked if you  
5     were shooting at them?

6           A.     We said no.

7           Q.     Did they ask you for a description of the  
8     people that shot at you?

9           A.     They asked what kind of a vehicle it was. They  
10    asked what -- is there any gang members maybe. We said  
11    possibly it was some gang members. They asked me if I knowed  
12    them. I said no, I don't know them.

13          Q.     Do you recall if you gave them any sort of  
14    description of any of the people in the vehicle?

15          A.     I don't recall.

16          Q.     Is it possible you did and you just don't  
17    recall it today?

18          A.     Yeah.

19          Q.     Did you speak with the officers voluntarily at  
20    the scene?

21          A.     Yes.

22          Q.     And where did you talk to them at? I mean were  
23    you inside the car, outside the car. Do you remember?

24          A.     Both, in and outside the car.

25          Q.     Were you told you are being arrested when you

1 were put inside the car?

2 A. I was told I was being taken in for  
3 questioning.

4 Q. About the shooting that had just taken place?

5 A. Yes.

6 Q. Do you recall which officer told you that? Was  
7 that the initial officer you talked to or a different officer?

8 A. It was a different officer.

9 Q. Do you recall that officer's name?

10 A. No.

11 Q. Do you recall what he looked like?

12 A. No.

13 Q. Did you ever find out if anyone in the other  
14 car was injured as a result of the shooting?

15 A. In the car that was -- firing at us?

16 Q. Yeah, swerving or driving, did you ever find  
17 out if anyone in that car was injured?

18 A. No.

19 Q. Did you later learn that the occupants of the  
20 other car were gang members?

21 A. Way down the line, I found out.

22 Q. Which gang did you find out they were members  
23 of?

24 A. If I'm not mistaken, they said they were  
25 Gangsters. Or --

1 Q. Which Gangsters? The Imperial Gangsters?

2 A. Yes.

3 Q. Do you know which neighborhood they were out  
4 of?

5 A. No.

6 Q. Did you previously know members of that gang?

7 A. No.

8 Q. Do you know if the Imperial Gangsters are Folks  
9 or People?

10 A. They're Folks.

11 Q. Were Imperial Gangsters -- you know what?  
12 Strike that. We have already talked about that.

13 Before the shooting did you ever know anyone named  
14 Hector Montanez that went by the name Lil Hector?

15 A. No.

16 Q. Before the shooting did you ever know anyone by  
17 the name of Thomas Sierra who went by the name Junito?

18 A. No, but I learned of the name afterwards, later  
19 on down in the case.

20 Q. So the night of the shooting did you go with  
21 the officers to the police station to answer more questions?

22 A. Yes.

23 Q. And where did you go?

24 A. To I think it was the police station.

25 Q. If the police report indicated that was at

1 Grand and Central, would you have any reason to dispute that?

2 A. No.

3 Q. Do you recall when you -- well, do you remember  
4 what time it was when you arrived at the police station?

5 A. No, I don't know the hour. I don't remember  
6 the time.

7 Q. Probably late in the evening?

8 A. It was getting pretty late.

9 Q. Where did you go when you went inside the  
10 police station?

11 A. We went into a -- like a little room or  
12 something like that.

13 Q. Can you describe the room?

14 A. It was like -- almost like an office type room.

15 Q. Was there any furniture in the room?

16 A. No, I don't think so.

17 Q. Were there chairs?

18 A. Maybe chairs. Maybe a table.

19 Q. Was Macho with you when you went into the room?

20 A. I don't think so. I think they questioned us  
21 one by one.

22 Q. I apologize, let me back up. Do you recall if  
23 Macho was with you when you drove to the police station?

24 A. Yeah.

25 Q. Were you handcuffed in that interview room?

1 A. I don't remember.

2 Q. Do you remember if the door was locked?

3 A. The door to --

4 Q. The door to the interview room.

5 A. I don't remember.

6 Q. Do you recall if you ever asked to use the rest  
7 room or anything like that?

8 A. No.

9 Q. And did you talk to officers in that interview  
10 room?

11 A. Yes.

12 Q. Do you recall the names of the people that you  
13 talked to?

14 A. No. I'm not too good with names.

15 Q. That's fine, and, you know, I'm going to ask  
16 for every officer that you talked to. If you remember, that's  
17 fine. If you don't, I know it's been a long time.

18 A. Okay.

19 Q. Do you recall what they looked like?

20 A. No.

21 Q. If I told you the police report stated you  
22 talked to Detective McMurray and Wojcik, would you have any  
23 reason to dispute that?

24 A. I don't remember the name or -- it might have  
25 been. I don't know.



1 Q. And what did you tell the officers? Or what  
2 did you discuss with the officers when you were in that  
3 interview room?

4 A. Well, he said that -- he asked if we were  
5 shooting back at the car and where the shooting took place.  
6 We said -- I said no, you know, we weren't shooting back. He  
7 said that he had been down there and he found two different  
8 caliber shell casings at the scene. And he asked you guys had  
9 to have been shooting back at these individuals. And we said  
10 nah, we weren't shooting at them; I don't know where you might  
11 have got that we were shooting at them. You can look at our  
12 vehicle, and our vehicle is just flooded with gun holes and  
13 everything. So we couldn't have been possibly shooting at the  
14 other vehicle.

15 And he asked how it started and stuff like that. If  
16 I got, if I seen the individual, what kind of car it was,  
17 describe the car, kind of rims, kind of color of the car,  
18 stuff like that. Why, why they started, why were we a target,  
19 did we start anything with them. You know, them type of  
20 questions.

21 Q. And were you truthful when you gave the answers  
22 to the police officers that night?

23 A. Yes.

24 Q. Just give me one second. Did you view any  
25 books of photographs while you were at the police station on

1 the night of the shooting?

2 A. I believe we looked at many, lots and lots of  
3 photographs.

4 Q. Would you say a hundred?

5 A. Close.

6 Q. And how were the photographs contained?

7 A. It was like something like an album type.

8 Q. Did the officers tell you which people in those  
9 books were suspects?

10 A. Umm, no.

11 Q. Did the officers tell you who to choose out of  
12 those books on the night of the shooting?

13 A. No.

14 Q. Did the officers threaten you to pick somebody  
15 out of those books?

16 A. No.

17 Q. Did they try to coerce you in some way to pick  
18 somebody out of those books?

19 A. No.

20 Q. Did they make any promises to you if you would  
21 choose somebody out of those books?

22 A. No.

23 Q. Were you able to identify anybody from the  
24 books you looked at that night?

25 A. I don't think I identified anyone at that

1 point.

2 Q. Where were you at in the station when you  
3 looked at the books? Were you still in that interview room?

4 A. I think so, yes.

5 Q. What happened after you talked to the officers  
6 then looked at the photos?

7 A. Well, I was just looking through all the photos  
8 and I told him none of these individuals looks like the  
9 person. So he gave me like a bundle of pictures also. I  
10 think there was a rubber band over them. And he said look at  
11 these. I'm just looking through them and I told him I still  
12 can't identify anyone at that point.

13 Q. And did you go home then after you talked to  
14 the police and looked at the photos?

15 A. Yes.

16 Q. Did you have any other conversation with the  
17 police officers that we haven't discussed that night?

18 A. No.

19 Q. And how did you get home?

20 A. I think they dropped us off. I'm not sure.  
21 They might have dropped us off.

22 Q. Do you remember what time it was when you got  
23 home?

24 A. I think it was like maybe 1:00, 2:00 in the  
25 morning, something like that maybe.

1 Q. When did you find out that Nuni had passed?

2 A. At the point where we had turned, we had made  
3 that last right turn on Wrightwood.

4 Q. Oh, so you knew before the police were on the  
5 scene that Nuni was dead?

6 A. Well, like I said, from the -- the gunshot  
7 wound in the head, you know. I had a brother that passed  
8 away, he got shot in the head. I assumed he was already gone  
9 because he wasn't answering my questions or anything when I  
10 was asking him you all right, or, you know, how you feel. So  
11 I figured he was already gone.

12 Q. Okay. Okay. So back to I guess the police  
13 station on the night of the incident. Have we discussed all  
14 the statements you made to the Chicago police officers on the  
15 night of the shooting?

16 A. Have we discussed it today?

17 Q. Uh-huh. I apologize. Yes, that's correct.  
18 Yeah, broke my own rule there.

19 A. Well, they asked me if I had a description of  
20 the person.

21 Q. Okay. And?

22 A. And I told them that the person was like a  
23 Latino looking person. And they said how did you get to see  
24 this person. And I said, well, when the car was stopped, I  
25 got a pretty all right glance of the individual.

1 Q. Did you tell them you got a pretty all right  
2 glance, or did you tell them you saw the person?

3 A. I might have told them I saw the person.

4 Q. Okay.

5 A. Yeah.

6 Q. Okay.

7 A. And he said that he might have -- oh, what did  
8 he say? He said he might have the people who had did the  
9 crime. So I'm like you do? He's like yes. He had to bring  
10 me back to the police station.

11 Q. Wait a minute. I apologize. Are you talking  
12 about something that happened after the shooting, after the  
13 night of the shooting?

14 A. Yeah. The night of the shooting I didn't pick  
15 anybody.

16 Q. Let me revert my question. Have we talked  
17 about all the statements you made to Chicago police officers  
18 on the night of the shooting, just on the night of the  
19 shooting, at the police station? Because then I'm going to go  
20 forward and talk about the next chunk, you know, the next time  
21 you talked to police officers. I want to make sure that  
22 before we go on that we have talked about everything that  
23 happened on the night of the shooting.

24 Now, of course, if you remember something later, you  
25 know, please say okay I forgot this also happened the night of

1 the shooting.

2 A. Okay.

3 Q. But almost like a book, so I can close the  
4 chapter on the night of the shooting, have we talked about  
5 everything you talked to police officers about on the night of  
6 the shooting?

7 A. Okay. I think that was it. After them  
8 pictures I had looked at and I couldn't identify anyone at  
9 that point.

10 Q. Okay. All right. Now we are going to go on.  
11 And my next question would be did you subsequently speak with  
12 police officers about the shooting a few days later?

13 A. Yes. There was a phone call. It was said for  
14 us, for me to go to the police station in regard to the  
15 shooting to look at some pictures.

16 Q. Do you remember if the police officers ever  
17 came to your home after the shooting?

18 A. They might have. I can't recall, but maybe  
19 they did. I think they might have did. It's just that I have  
20 been so much running around with police, and it's like I'm  
21 trying to focus just on this time because --

22 Q. Sure.

23 A. I have been harassed many times, you know,  
24 before, and I'm just trying to pinpoint this actual --

25 Q. Okay.

1 A. -- of what happened.

2 Q. Did the police harass you regarding this  
3 incident?

4 A. No.

5 Q. You subsequently, and we are going to talk  
6 about this in more detail later, but you gave testimony in  
7 this case in court. Correct?

8 A. Uh-huh, yes.

9 Q. Do you recall testifying that police officers  
10 came to your house on May 25th, which was two days after the  
11 shooting?

12 A. They might have come. Like I said, I don't  
13 remember too good. But I would say they might have come.

14 Q. If I showed you your testimony and let you read  
15 it, do you think that would help refresh your memory?

16 A. Maybe.

17 Q. Okay. I'm going to go ahead and do that.

18 Liz, I'm going to show him what I am going to  
19 mark as Exhibits 1 and 2. Exhibit 1 is Bates stamped RG 2774  
20 through RG 2845, and that is his trial testimony.

21 MS. MAZUR: Okay.

22 MS. WHITE: And Exhibit 2 is going to be RG 3176  
23 through 3199, and that is his motion to suppress testimony.

24 MS. MAZUR: Okay.

25 MS. WHITE: Can I please ask you to mark these

1 Exhibit 1 and 2? And Liz, I'm going to give him some time to  
2 sit and read them. So we are not going to be doing anything  
3 here. In fact we will go off the record while he reads them  
4 through.

5 MS. MAZUR: Okay, that will be good. I'm going to  
6 step away from my desk for no more than three minutes. Okay?

7 MS. WHITE: That's fine. Oh, wait. Liz? Wait. He  
8 has a quick question here, and I don't want to answer it  
9 without you.

10 MS. MAZUR: Okay, that's okay.

11 MS. WHITE: Go ahead.

12 THE WITNESS: My reading ain't too good, so --

13 MS. WHITE: Okay. That's fine. That's totally  
14 fair. Liz, scratch that. Can we go off the record?

15 (Off-the-record discussion.)

16 (Brief recess taken at 10:33 a.m.)

17 (Back on the record at 10:37 a.m.)

18 MS. MAZUR: I'm back.

19 MS. WHITE: Okay, Liz? He's decided he is not going  
20 to read them. Mr. Rodriguez is not going to read through the  
21 exhibits, so we are not going to attach them at this point as  
22 exhibits. We're just going to discuss them, you know,  
23 generally.

24 MS. MAZUR: Okay.

25 MS. WHITE: Okay? And I -- we can go back off the



1 record.

2 (Off-the-record discussion.)

3  
4 MS. WHITE: Liz, are you all set if we get back to  
5 it?

6 MS. MAZUR: Yeah, sure.

7 MS. WHITE: Okay. Hopefully we shouldn't be too too  
8 much longer here. Are we ready? Let's go back on record.

9 BY MS. WHITE:

10 Q. Do you recall you stated earlier you recall  
11 providing court testimony in this case? Correct?

12 A. Yes.

13 Q. And do you recall testifying twice in this case  
14 in court?

15 A. Not that I know of. I might have remembered  
16 one time.

17 Q. Okay. Would that one time be at the trial?

18 A. Yes.

19 Q. And is it possible that you testified another  
20 time prior to trial? On August 20, 1996?

21 A. Maybe. I'm not sure.

22 Q. Okay. If I say there was a transcript of your  
23 testimony on that date, would you have any reason to dispute  
24 that you gave testimony on that date?

25 A. No.

1 Q. And if I -- I know you said you don't  
2 specifically recall testifying on that date, but have you ever  
3 testified in court and not told the truth?

4 A. No.

5 Q. So every time you have ever testified in court  
6 you have told the truth?

7 A. Yes.

8 Q. Would you ever lie while testifying in court?

9 A. I would not -- I wouldn't want to lie. I don't  
10 think there should be a reason why to lie.

11 Q. Okay. If I told you that your testimony on  
12 this date, August 20th, that during your testimony on  
13 August 20th and also during your trial testimony you stated  
14 that officers came to your house on August 25th, which is two  
15 days after the shooting -- I'm sorry, I apologize -- May 25th,  
16 two days after the shooting to talk to you, does that refresh  
17 your recollection as to whether police officers came to your  
18 house?

19 A. I believe they might have came to the house.

20 Q. Do you know how many officers came to your  
21 house?

22 A. No.

23 Q. Can you provide a physical description of any  
24 of the officers?

25 A. No.

1           Q.    Do you recall if anyone else was present when  
2 you talked to the officers?

3           A.    No.

4           Q.    And that being no, meaning you don't recall if  
5 anyone else was present?

6           A.    I really don't recall the actual time when the  
7 officers came there.

8           Q.    Okay. When is the next time you do recall  
9 talking to police officers?

10          A.    When I went to see the vehicle, to see the  
11 vehicle that was in the shooting. I had went back to the  
12 Grand Central.

13          Q.    Is that the time you were discussing earlier  
14 when there was a phone call where someone told you to come to  
15 the police station?

16          A.    Yes.

17          Q.    And do you recall the date that you went to the  
18 police station?

19          A.    No.

20          Q.    If the police report stated that was May 30,  
21 1995, which would be about a week after the shooting, would  
22 you have any reason to dispute that?

23          A.    No.

24          Q.    Did you talk to the officer who called you on  
25 the phone?

1           A.     Yeah.  He asked me to come down to the station  
2 and he wanted to talk or ask questions.

3           Q.     Do you remember how you got to the police  
4 station?

5           A.     No, I don't remember.

6           Q.     Do you remember the name of the officer who  
7 called you?

8           A.     No.

9           Q.     Do you remember if -- well, strike that.  Did  
10 anybody go to the police station with you?

11          A.     I think there was someone with me, but I can't  
12 remember.

13          Q.     Do you know if Macho went with you to the  
14 police station?

15          A.     He might have been there when I got there  
16 already.  I'm not sure.

17          Q.     Do you remember who you talked to when you got  
18 to the station?

19          A.     I know there was -- I'm not sure if it was a  
20 homicide detective or --

21          Q.     So it was a detective, not a uniformed officer?

22          A.     Yes, it was a detective.

23          Q.     But you don't remember his name?

24          A.     No.

25          Q.     Do you remember if there were more than one

1 detective?

2 A. No, I don't remember if there was more than  
3 one.

4 Q. Do you remember where you talked to the  
5 officers, or excuse me, the detectives in the police station?

6 A. Well, when I got to the station, he asked me if  
7 I -- if I can identify the vehicle. He says it's somewhere in  
8 the parking lot. And we were walking around looking for the  
9 vehicle. And I said the only vehicle I see that looks like  
10 it, I pointed to a vehicle which was a Park Avenue 98. I know  
11 it was a four-door vehicle, like a dark blue, same hubcaps, a  
12 spoke hubcap. But I told him there is one thing that's  
13 different on the vehicle than the one that had shot at us.  
14 And he said what's different. I said, well, it don't have any  
15 tinted windows. And he said this is the car. I said, looks  
16 just like the car other than the tinted windows. And, umm --

17 Q. Okay. Do you remember how many cars there were  
18 in the parking lot?

19 A. Wow, parking lot was like full.

20 Q. So we're talking maybe a hundred cars?

21 A. I wouldn't say a hundred. I would say maybe  
22 like fifty cars, something like that.

23 Q. Was Macho with you looking at the cars?

24 A. Like I said, I'm not sure if Macho was there.

25 Q. Oh, you are not even sure if Macho was at the

1 station that day?

2 A. Yeah.

3 Q. So it's possible he could have been there? Or?

4 A. He possibly could have been there.

5 Q. Or it's possible he was not?

6 A. Right.

7 Q. Do you recall, besides the things that you just  
8 told me that you told the officer about the car that you  
9 identified, do you recall any other conversations you had in  
10 the parking lot or on your way to the parking lot?

11 A. No.

12 Q. Do you recall how many officers accompanied you  
13 to the parking lot?

14 A. No.

15 Q. And when you say the parking lot, that's the  
16 parking lot of the police station, correct?

17 A. Yes.

18 Q. So did you tell the officer then other than the  
19 tinted windows, you know, did you make an identification of  
20 the car, that that was the car?

21 A. Can you repeat the question?

22 Q. Sure. Other than the tinted windows, did you  
23 tell the officer other than the tinted windows this is the car  
24 that was involved in the shooting?

25 A. Yeah, I told him that has to be the car other

1 than the tinted windows.

2 Q. Did the officer, any of the officers that were  
3 with you, tell you which car to choose before you chose that  
4 car?

5 A. No.

6 Q. Did they threaten you with which car to choose?

7 A. No.

8 Q. Did they promise you anything if you chose a  
9 certain car?

10 A. No.

11 Q. Did they coerce you in any way in regard to  
12 which car to choose?

13 A. No.

14 Q. On that date when you were at the police  
15 station, or any time before that, do you recall if you ever  
16 looked at pictures for a second time?

17 A. Yes.

18 Q. Okay. Tell me about that.

19 A. They showed me some more pictures and he had  
20 asked me if -- if any of the individuals looked like the  
21 person or whatever, and I'm not sure if, if it was at that  
22 point I identified the individual. But I had showed 'em a  
23 picture, or it might have been a line-up. I'm not sure. I'm  
24 not sure how I identified the person. I don't remember.

25 Q. Okay. I am going to draw your attention to

1 your trial testimony which, Liz, I'm going to be looking at  
2 Bates stamped pages RG 2797 and -- I think it's just going to  
3 be 2797 and 2798, which is marked as Pages 109 and 110 of his  
4 trial testimony.

5 MS. MAZUR: Okay, thank you.

6 BY MS. WHITE:

7 Q. I'm going to read this to you and just see if  
8 it refreshes your recollection about whether or not you looked  
9 at photos.

10 A. Okay.

11 Q. Okay? He gave me -- you stated, "He gave me  
12 some photos and I laid them down on the table to go through  
13 them."

14 Question: Did you go through these pictures.

15 Answer: Yes.

16 Question: You said how many were there.

17 Answer: Around six or seven.

18 Question: Did you look at the front or backs of  
19 those pictures.

20 Answer: Front.

21 Question: After looking at those pictures did you  
22 recognize anybody.

23 Answer: Yes.

24 Question: Who was that.

25



1           Answer: The shooter.

2           Question: Is that the defendant who you pointed out  
3 earlier?

4           And there was some objection and you said -- you  
5 know what? I'm sorry. Then there were some objections to  
6 that question.

7           Next question: The person you identified in the  
8 picture -- I'm sorry, the series of pictures, did the police  
9 tell you to pick that person.

10          Answer: No.

11          Did they point at the picture while you were looking  
12 at it?

13          No.

14          How long did you look at those pictures before you  
15 picked out the picture of the person you thought did the  
16 shooting?

17          A couple of minutes.

18          So my question is, did that refresh your  
19 recollection as to whether or not you ever looked at  
20 photographs?

21          A. Well, I said I had looked at some photographs  
22 the second time I had went down there. Like I said, I wasn't  
23 sure if it was a photograph or a line-up.

24          Q. Let me tell you, I don't want to interrupt you,  
25 even though I just read you part of your trial testimony --

1 A. Yeah.

2 Q. -- I want your testimony here today to be what  
3 you remember today.

4 A. Okay.

5 Q. So if I read that to you and it kinda makes a  
6 light bulb go off and you go, oh, now I do remember that,  
7 that's fine. If I read you that and you go, hey, I still  
8 don't remember it, that's fine too. I don't want you to try  
9 and guess at and just be copying your testimony before.

10 A. That's why I asked. It might have been one or  
11 the other.

12 Q. Let me ask again then. After reading that, do  
13 you have a memory as you sit here today of definitely looking  
14 at pictures with the police officers?

15 A. Do I have a memory of looking at pictures with  
16 the officers?

17 Q. Correct.

18 A. Yes.

19 Q. Okay.

20 A. Yes.

21 Q. Do you remember whether or not if you  
22 identified anyone in those pictures with the police officers?

23 A. I know I had identified someone. It might have  
24 been with the photos. Like I said, I have been arrested and  
25 harassed so many times and taken for line-ups and all type of

1 stuff, and it's just -- it's just going over here and going  
2 over there, and I'm trying to focus here. And I don't want to  
3 say yes and then I'm going to a different event. You know?  
4 So I'm trying to be precise.

5 Q. That's fair, that's fair. And I appreciate  
6 that you are trying very hard to be truthful and clear.

7 A. Yeah.

8 Q. Directing your attention to that trial  
9 testimony that you gave, do you remember if you were under  
10 oath the day you gave your testimony at trial?

11 A. I believe I was.

12 Q. Did you tell the truth when you gave your  
13 testimony at trial?

14 A. Yes.

15 Q. When you gave your testimony at trial, that was  
16 within a few months of the shooting, correct? I don't know if  
17 I have the date here. Liz, do you have the date of the trial  
18 testimony in front of you?

19 MS. MAZUR: No, I don't. I'm sorry.

20 MS. WHITE: I do, and I could go looking for it.  
21 But I'm sure it was within a few months of trial. Okay.

22 BY MS. WHITE:

23 Q. Would you agree your memory of the shooting,  
24 would you agree your memory was stronger about the shooting  
25 and the investigation at the time you gave your trial

1 testimony than now?

2 A. Yes, my memory was stronger.

3 Q. Okay. So to the extent that either you don't  
4 remember something at all today or your memory today conflicts  
5 with your previous testimony, would you agree that your  
6 previous testimony is probably more likely accurate?

7 A. Yes, it's accurate.

8 Q. All right. And even you said that you don't  
9 remember giving testimony at another time, that being your  
10 Motion to Suppress testimony that we discussed earlier,  
11 correct?

12 A. I didn't understand the question.

13 Q. Sure. You said you don't remember giving  
14 testimony any other time in this case. Correct?

15 A. Right, other than the trial.

16 Q. Okay. But you testified that if you would have  
17 given testimony at another time, that it would have been  
18 truthful as well?

19 A. It might have been, yes.

20 Q. Same question. Would you also then agree if  
21 you gave truthful testimony on August 20, 1996 (sic?), which  
22 was three months after the shooting, it's more likely that  
23 your memory was stronger at that time too? Correct?

24 A. Maybe. It should be. It's just that it has  
25 been so long and so many incidents just flashing in my head.

1 Q. That's fine. That's fine. Do you remember  
2 whether you attended a line-up in this case?

3 A. No, I don't. I don't. I'm not really -- I  
4 can't remember if it was a line-up. Like I said before, it  
5 might have been the pictures or it might have been the  
6 line-up. I'm not sure.

7 Q. But you do remember that at some time you  
8 identified somebody in this case as the shooter, correct?

9 A. Yes.

10 Q. And when you made that identification, do you  
11 remember if the police officers threatened you in any way to  
12 make that identification?

13 A. No. I believe I would have remembered  
14 something like that.

15 Q. Do you think you would have remembered if they  
16 had told you who to choose when you made the identification?

17 A. Yes.

18 Q. Do you remember any of the officers who you  
19 I'll say dealt with or talked to during this investigation, do  
20 you remember any of their names?

21 A. Wow, I'm not really too good with names.

22 Q. Can you remember a physical description of any  
23 of the officers who you worked with in this investigation?

24 A. I know there was a Hispanic cop I talked to.  
25 And I don't know -- maybe a couple other officers, maybe some

1 white officers. I don't know, I would say there might be  
2 white officers.

3 Q. I want to talk to you about the Hispanic cop.  
4 Can you remember any specific times that you talked to him, or  
5 do you just remember him generally?

6 A. I just remember him generally.

7 Q. Do you remember if he spoke Spanish? Or you  
8 know what? Do you speak Spanish?

9 A. Yeah. Very little, so on and so forth.

10 Q. Do you remember hearing him speak Spanish?

11 A. No.

12 Q. Do you remember what he looked like?

13 A. I think he had glasses on. I'm not sure if he  
14 had black hair.

15 Q. Do you remember if he ever told you who to  
16 identify as the shooter?

17 A. No.

18 Q. Do you remember if he ever told you -- if he  
19 ever threatened you with who to identify as the shooter?

20 A. No.

21 Q. Do you remember if he ever coerced you or  
22 tried to trick you into identifying anyone as the shooter?

23 A. No.

24 Q. Do you remember if he was the one who showed  
25 you the photographs?

1           A.    It might have been him that showed me the  
2 photographs.

3           Q.    It might have been him?

4           A.    Yeah, it might have been him.

5           Q.    But it might not have been him as well?

6           A.    Right.

7           Q.    Do you remember if anything -- is there  
8 anything that you remember that he told you? You know what?  
9 Strike that. Do you remember if he ever told you that they  
10 had the person prior to you making the identification?

11          A.    I don't know if it was before or after, but I  
12 kind of do believe that he said he got the person or they know  
13 of the person.

14          Q.    But you don't remember whether that was before  
15 or after you made the identification?

16          A.    No, I don't remember if it was before or after.

17          Q.    So it's possible it was after you made the  
18 identification?

19          A.    Yes.

20          Q.    Have we discussed everything that you can  
21 remember about -- you know what? Strike that. Do you ever  
22 remember giving a written statement to police?

23          A.    I don't think so. I can't write.

24          Q.    Do you ever remember meeting with a state's  
25 attorney or district attorney at the police station?

1           A.     No.

2           Q.     Is it possible that you met with a state's  
3 attorney and gave a statement and you just don't recall it as  
4 you sit here today?

5           A.     It's possible. There is so many people asking  
6 questions and -- I really don't know who was who. I'm just  
7 trying to get to the -- help, whatever I can do, to do their  
8 job, you know.

9           Q.     So if the police report talks about you meeting  
10 with the state's attorney and giving a written statement,  
11 would you have any reason to dispute that?

12          A.     No, because I know I talked to many people. I  
13 don't know what their positions were or anything. I just --

14          Q.     Okay. Did you tell the truth at all times when  
15 you were talking to the police regarding this investigation?

16          A.     I don't see why not.

17          Q.     Do you recall ever lying to police officers in  
18 your involvement in this investigation?

19          A.     No.

20          Q.     In fact you were trying to help them  
21 investigate the murder of your friend, correct?

22          A.     Yes.

23          Q.     So you wanted them to find the shooter,  
24 correct?

25          A.     Yes.



1 Q. And when you did make your identification of  
2 the shooter, were you sure that that was the person who you  
3 had seen shooting the gun that night?

4 A. I was pretty sure.

5 Q. How sure were you?

6 A. Umm, I don't know how to -- to describe it, but  
7 I was pretty sure it was him.

8 Q. You knew you were identifying somebody in a  
9 murder investigation, correct?

10 A. Yes.

11 Q. And you knew there was a possibility he could  
12 go to jail for a significant amount of time if he had a murder  
13 conviction, correct?

14 A. Correct.

15 Q. You understood the importance of the  
16 identification you were making, correct?

17 A. Yes.

18 Q. And with that understanding, you were still  
19 sure that that was the shooter? Correct?

20 A. Yes.

21 Q. Have we now discussed everything that you can  
22 remember? Every conversation, every statement you can  
23 remember saying to Chicago police officers involved in the  
24 investigation of the shooting, a line-up if you took one, the  
25 photo identification, a written statement if you gave one?

1 Anything you can remember telling them that we have not talked  
2 about?

3 A. No.

4 Q. Is there anything else that you can remember  
5 then any Chicago police officers saying to you throughout all  
6 of those processes that we have not talked about?

7 A. No.

8 Q. And specifically with regard to the Hispanic or  
9 Latino cop who is the only police officer you can remember,  
10 have we discussed everything you can remember telling him?

11 A. Just what we talked about today.

12 Q. Have we discussed everything that you can  
13 remember him saying to you?

14 A. Just, he was -- like I said, I don't know if it  
15 was before or after; he said that he pretty much knows who the  
16 individual is.

17 Q. Okay. Did he ever tell you who to implicate or  
18 who to identify?

19 A. No.

20 Q. So after the night when you attended the line-  
21 up or did the photographs or looked at the vehicles, you think  
22 all that happened on the same day, correct?

23 A. Yes.

24 Q. Do you recall whether you had any other  
25 interactions with the police officers about this shooting

1 after that?

2 A. No.

3 Q. I'm sorry. No, you don't recall, or no, you  
4 didn't have any other interactions with them?

5 A. I don't think I had any other interactions with  
6 them.

7 Q. Did you ever find out whether or not Macho had  
8 made an identification?

9 A. I wasn't sure.

10 Q. Did you ever talk to him about it?

11 A. Yeah, I talked to him about it. He said that  
12 he couldn't help them, whatever, as far as he couldn't give a  
13 good description of the person. I don't know, something to  
14 that extent.

15 Q. Did he tell you that he didn't get a good look  
16 at the person?

17 A. In other words, he was just -- he didn't want  
18 to go through -- like in other words, he didn't want to go  
19 through the process of asking the questions and stuff like  
20 that. He said he answered them to the best he could. He  
21 really -- he was actually upset that he had to go through  
22 that. You know, the questioning and all that. He was just  
23 like upset.

24 Q. Do you know why he was upset?

25 A. No.

1 Q. Do you know if it had anything to do with the  
2 fact that there was gang involvement in the shooting?

3 A. Maybe. Maybe because of the shooting or maybe  
4 he might be upset because his vehicle or maybe what happened  
5 to Nuni, or -- I don't know. He was just like he didn't want  
6 to go. He was upset just going through the questioning thing.  
7 He was like kind of upset.

8 Q. Were you under the influence of any drugs when  
9 you gave your trial testimony?

10 A. No.

11 Q. Were you under the influence of any alcohol  
12 when you gave your trial testimony?

13 A. No.

14 Q. How did you get to the courthouse for your  
15 trial testimony?

16 A. I don't remember.

17 Q. Besides the statements we have talked about  
18 today, did you ever give any other statements about the  
19 shooting to the police officers?

20 A. No.

21 Q. Did you ever give any other statements about  
22 the shooting to the state attorney's office or the  
23 prosecutors?

24 A. Not that I remember.

25 Q. Did you subsequently learn the name of the

1 person you had identified?

2 A. I mean I don't got it on my mind, but if I hear  
3 it --

4 Q. Did you learn that his name was Thomas Sierra?

5 A. Yes.

6 Q. Did Thomas Sierra ever ask you to give a  
7 statement on his behalf?

8 A. No. I don't think I ever talked to him before.

9 Q. Did anyone else, including any gang members,  
10 ever ask you to give a statement on his behalf?

11 A. I think I heard of something as far as he  
12 wanted -- I think he knew someone that might have known me and  
13 he was trying to get me not to come to court, or something  
14 like that.

15 Q. That was back before your trial testimony?

16 A. I think so, yes.

17 Q. This person he knew, was that another gang  
18 member?

19 A. I'm trying to think who the person might have  
20 been. (Pause.) I don't know who the person was, but I know  
21 it was something to the extent that he had gave a message to  
22 that individual to pass it on to me to not show up for court,  
23 or something to that extent.

24 Q. Was that like a threat, not to show up for  
25 court?

1           A.    I don't know if it was a threat. But it wasn't  
2 brought to my attention as a threat. It was just like, in  
3 other words, give him a break type thing, you know. Something  
4 like that.

5           Q.    Did you ever, did you think about doing that?

6           A.    No.

7           Q.    Because Nuni was your friend?

8           A.    Yes.

9           Q.    Do you know if he ever tried to get a statement  
10 from you or anyone on his behalf ever try to get a statement  
11 from you after his conviction?

12          A.    No.

13          Q.    Do you know if anyone, either him or anyone on  
14 his behalf, ever tried to get Macho not to testify?

15          A.    That I know of, no.

16          Q.    Do you know if they ever tried to get Macho to  
17 change his identification of him?

18          A.    No.

19          Q.    Do you know if anyone else ever signed any  
20 statements to try and help get Sierra out of jail?

21          A.    No.

22          Q.    Do you know if there was ever any retaliation  
23 by the Latin Kings for the shooting?

24          A.    No.

25          Q.    No, you don't know? Or no, there never was?

1           A.    I don't think there ever was.

2           Q.    You have heard of retaliation for gang  
3 shootings though, correct?

4           A.    Yes.

5           Q.    Is that something that would happen after a  
6 gang member was killed?

7           A.    Well, many times after a member of the  
8 organizations may be killed -- or don't even have to be  
9 killed. It could just be beat up or something like that.  
10 They might want to go and beat up on one of their people or  
11 whatever. From my understanding, I don't think anything was  
12 ever retaliated because of Nuni.

13          Q.    Were you ever scared of retaliation for your  
14 identification of Sierra?

15          A.    Well, it crossed my mind, but -- I don't see it  
16 as a threat because I don't even know the individual. And  
17 nobody he knows might have known me either.

18          Q.    Had you heard before though of retaliation for  
19 people making identifications, especially in court, of gang  
20 members?

21          A.    Well, I don't think it'd necessarily have to be  
22 a gang member. It could go either way, gang or no gang  
23 member.

24          Q.    Just generally that was something you had heard  
25 of happening?

1 A. Yes, I heard of it before.

2 Q. Are there any Imperial Gangsters here at FCI  
3 McKean?

4 A. I think there is one maybe. Maybe one.

5 Q. Have you ever been concerned here for your  
6 safety regarding the identification you made in this case?

7 A. No.

8 Q. Are you fearful of gangs here for any reason as  
9 a result of you testifying today?

10 A. I don't think anyone knows.

11 Q. If they did know, would you be fearful?

12 A. Yeah, I would.

13 Q. And why would that be?

14 A. Because, because who I used to be.

15 Q. You mean a Latin King?

16 A. A Latin King. It could be like they might  
17 think that I might have said something against them, or it's  
18 part of a rule not to give a statement or whatever, what I'm  
19 doing today.

20 Q. Sure. And when you say you are fearful, would  
21 you be fearful of being beat up?

22 A. Well, it could happen. But like I said, I  
23 don't surround myself around that anymore. And that's one of  
24 the reasons why I didn't wanna take place in this -- this  
25 gathering today.



1           Q.     Well, and I'll just tell you too -- and Liz, I  
2     hope you are okay with me representing this -- that he said  
3     that no one here at the prison, of course except the prison  
4     staff, knows he is here. I have no intention of telling  
5     anyone. I don't actually know anyone else who is incarcerated  
6     here. So I would have no intention. And I don't think that  
7     the Plaintiff probably has any intention of it, informing  
8     anyone that you gave deposition today. Is that correct, Miss  
9     Mazur?

10           MS. MAZUR: Yes, that's correct.

11     BY MS. WHITE:

12           Q.     So I don't know if that helps you at all, but I  
13     do want to make sure I settled that for you.

14           A.     All right.

15           Q.     Okay. Have you ever told anyone that your  
16     identification of Thomas Sierra as the shooter was false?

17           A.     No.

18           Q.     Do you know if Macho ever told anyone that his  
19     identification of Sierra was false?

20           A.     I don't know if he ever told anyone.

21           Q.     Have you ever talked with anyone else, besides  
22     I guess me, about this case, about your testimony here today?

23           A.     If I ever told anyone?

24           Q.     Uh-huh.

25           A.     No, other than my counselor and case manager.

1 Q. Okay. And have you ever talked with anyone in  
2 general about the identification you made in this case since  
3 your trial testimony?

4 A. No.

5 Q. Did you and Macho ever talk about the trial  
6 testimony and what happened at trial?

7 A. Well, he asked what had happened or what was  
8 the outcome. I had told him that they had found him guilty  
9 and that I had testified against him.

10 Q. Do you know if Macho ever testified?

11 A. I don't know if he ever testified.

12 Q. Did you look at anything in preparation for the  
13 deposition today? Any document?

14 A. Can you repeat the question?

15 Q. Did you look at any documents in preparation  
16 for your testimony today?

17 A. I don't have any documents.

18 Q. Okay. Okay, we are going to go through a list  
19 of people and I'm just going to ask you if you know these  
20 people or know of these people, heard of these people. I know  
21 you often tend just to know nicknames.

22 A. Uh-huh.

23 Q. So when I have the nicknames, I'll give you  
24 those. Okay?

25 A. Okay.

1 Q. Do you know or do you know of Juan Johnson?

2 A. No.

3 Q. Okay. Juan Johnson is the plaintiff in this  
4 case. Do you know any of the details of his criminal murder  
5 conviction?

6 A. Who is Juan Johnson?

7 Q. He's the plaintiff in this case. I'm just  
8 trying to get at if you know anything about him or his  
9 previous criminal case or his current civil case.

10 A. I don't know.

11 Q. Do you know a person by the name of Hector  
12 Franco?

13 A. No.

14 Q. Sammy Perez, who goes by Spanky?

15 A. No.

16 Q. Ramon Crespo?

17 A. No.

18 Q. Nelson Crespo?

19 A. No.

20 Q. Juan Delgado?

21 A. Juan Delgado? Kind of sounds familiar.

22 Q. Do you know where you might know Juan Delgado  
23 from?

24 A. The name kind of like rings a bell. I don't, I  
25 don't --

1 Q. Do you know a Juan Delgado who is a member of  
2 the Spanish Cobras street gang?

3 A. I don't.

4 Q. Okay. Ricardo Fernandez?

5 A. No.

6 Q. Edwin Gomez?

7 A. No.

8 Q. Henry Johnson?

9 A. No.

10 Q. Chris McCoy?

11 A. No.

12 Q. Armando Medez?

13 A. No.

14 Q. Player E?

15 A. No.

16 Q. Juan Michel?

17 A. No.

18 Q. Jose Negron?

19 A. No.

20 Q. Reginald Robinson?

21 A. No.

22 Q. Reginald Williams?

23 A. No.

24 Q. We are just about done, I promise. Do you know  
25 an Imperial Gangster named David Colon who goes by Malo or

1 Negro G?

2 A. No.

3 Q. Ruben Gonzel ez?

4 A. No.

5 Q. Raymond Graci ano who goes by Ray?

6 A. No.

7 Q. Davi d Ri vera?

8 A. No.

9 Q. Joel Val enti n?

10 A. No.

11 Q. He goes by Pappo.

12 A. No.

13 Q. Raoul Cook?

14 A. No.

15 Q. Angel Guy-ah (phonetic spelling), who goes by

16 Lui s?

17 A. No.

18 Q. Charles Ell ison, who goes by Choco?

19 A. No.

20 Q. Lui s Serrano, who went by Hi t Man or Danny?

21 A. What was that last name?

22 Q. Serrano?

23 A. What was the first name?

24 Q. Lui s.

25 A. Serrano?

1 Q. He was a -- well, did you ever know a Luis  
2 Serrano who was a member of the Beach & Spaulding faction of  
3 the Latin Kings?

4 A. The name, ahhh, the name rings a bell.

5 Q. Do you know if he had rank in the Beach &  
6 Spaulding Latin Kings?

7 A. No. I'm trying to picture the person. But  
8 like I said, rings a bell. I don't know if he --

9 Q. Do you know if he was ever connected -- excuse  
10 me. If he was ever convicted of a homicide in Chicago?

11 A. I don't -- I don't even know the person. I  
12 know the name sounds familiar, but I'm trying to put a face to  
13 it. But -- I can't.

14 Q. Ismael Rivera? Went by Bandit?

15 A. Can you state another name before Ismael?

16 Q. No, we just talked about Luis Serrano.

17 A. Oh, okay.

18 Q. And the next one I asked was Ismael Rivera who  
19 went by Bandit.

20 A. No.

21 Q. How about Wilfred Rosario who went by Bear?

22 A. The nicknames kind of sound familiar, but --

23 Q. Do you know who the leader of the Armitage and  
24 Kedzie Latin Kings was in 1995?

25 A. No. It's like I don't -- I'm not from the

1 neighborhood, so I really don't -- don't know who is calling  
2 the shots or whatever.

3 Q. What do they call the person who is the leader?  
4 I know different gangs have different names for them. What  
5 would they call the person who was the leader of the Latin  
6 Kings in your neighborhood?

7 A. Inca.

8 Q. Do you know someone named Martinez Arcos, went  
9 by Chino?

10 A. The nickname sounds familiar, Chino.

11 Q. Do you know if Chino lived or at least hung  
12 around near Lowell Elementary in Chicago?

13 A. I don't know.

14 Q. Do you know if Chino hung out near the Humboldt  
15 Parking Center in Chicago?

16 A. I don't know.

17 Q. Do you know Rudy Martinez? Might be a common  
18 name. Do you remember anybody named Rudy Martinez?

19 A. No.

20 Q. Efran Sanchez?

21 A. No.

22 Q. Julio Sanchez?

23 A. No.

24 Q. Okay. I'm going to take a minute to go over my  
25 notes and make sure I don't have any other questions. I think

1 I might be almost done, in which case I think Miss Mazur may  
2 have some questions for you. Liz, do you know if you have  
3 questions?

4 MS. MAZUR: Yeah, I have some, but not too many. I  
5 don't think it should be very long.

6 MS. WHITE: Okay, just give me a couple minutes to  
7 look over my notes.

8 (Documents reviewed by counsel.)

9 MS. WHITE: Okay, I think I'm done. She might have  
10 a few here for you. Go ahead, Liz.

11 MS. MAZUR: I'm sorry? Is it okay if I go ahead?

12 MS. WHITE: Yes, please do.

13

14 CROSS EXAMINATION

15 BY MS. MAZUR:

16 Q. There is a couple I wanted to follow up on,  
17 questions you just heard earlier. I wanted maybe just a point  
18 of clarification. Isn't it right that today we have talked  
19 about two separate incidents after the day of the shooting  
20 where you went to the police department to potentially do some  
21 kind of identification?

22 A. Yeah.

23 Q. Okay. And that would have been -- I know you  
24 testified you said you went the night of the shooting and you  
25 couldn't make an identification then; is that right?



1 A. Yes.

2 Q. And then even though I understand right now  
3 sitting here today you don't really have a memory of it, but  
4 in prior testimony you've given, it sounds like you went back  
5 to the police department around May 25th, which was like two  
6 days later. Is that correct?

7 A. Yeah, that could be.

8 Q. Okay. And then just to help me make sure I  
9 understand and heard everything correctly, that there was  
10 another time in that period that you would have gone back to  
11 make identification; is that correct?

12 A. I didn't understand your question.

13 Q. Then after you went on May 25th, did you go  
14 back again to the police station on the 30th to see if you  
15 could make an identification?

16 A. The number of times I might have went to the  
17 police station might have been two times. I don't know if  
18 that's -- might have been the second time.

19 MS. WHITE: Hey, Liz, I'm sorry to interrupt. We're  
20 having a really hard time hearing you and I think it's just  
21 our facility, we are in an echoing room. Could you just talk  
22 as loud as you can? Maybe shut your office door and talk as  
23 loud as you can?

24 MS. MAZUR: My door is shut, but I'll speak as loud  
25 as I can into the speaker phone.

1 MS. WHITE: Thank you.

2 BY MS. MAZUR:

3 Q. Do you recall if you had any conversations with  
4 Macho about what happened between the day of the shooting and  
5 the time that you went back to the police station to make an  
6 identification?

7 A. No.

8 Q. Okay, you don't remember either way?

9 A. No.

10 Q. Okay. And are you aware that -- well, strike  
11 that. Sorry. You testified that you were, when you made the  
12 identification of the shooter, that you were pretty sure about  
13 it. And I think counsel tried to get, you know, follow up on  
14 that. I know it's kind of a difficult question to answer, but  
15 do you recall being a hundred percent certain, that, yes,  
16 that's the guy I saw in the car that night?

17 MS. WHITE: I'm going to object to the form. You  
18 can go ahead and answer her question.

19 THE WITNESS: Well, if I picked the person at that  
20 point, I feel it was a hundred percent sure.

21 BY MS. MAZUR:

22 Q. Okay. And do you remember when you made the  
23 identification it was when you were looking at photographs?

24 A. Yes.

25 Q. Okay, it was. And do you remember whether the

1 photographs were being shown to you like one at a time?

2 A. I know he gave me like many at a time.

3 Q. Okay. And do you remember when you made that  
4 identification like if there were several photos out in front  
5 of you at that instance?

6 A. There were many photos.

7 Q. Okay. And do you remember, you know, whether  
8 the person showing you the photographs said anything like we  
9 think it might be this guy and showed you a picture, or  
10 anything like that?

11 MS. WHITE: I'm going to object to form. He's  
12 already stated he remembers that. You can go ahead and answer  
13 the question.

14 THE WITNESS: I don't think that he pointed at a  
15 picture.

16 BY MS. MAZUR:

17 Q. Okay. And when they were showing you the  
18 photographs, was anyone -- I'm sorry, strike that. When you  
19 were looking at the pictures, was the officer saying anything  
20 to you about the investigation?

21 A. No.

22 Q. No? Okay. And at the time of the shooting  
23 which was back in 1995, did you have any or were there any  
24 charges pending against you for anything?

25 A. Yes.

1 Q. What were the charges?

2 A. One was a drug charge and a gun charge.

3 Q. And were those Federal charges?

4 A. It was state charges.

5 Q. Okay. When did you -- did you go to trial on  
6 those charges?

7 A. I went to trial on one charge, ma'am.

8 Q. Were those two charges, were they charged at  
9 the same time or were they related to separate incidents?

10 A. They were separate incidents.

11 Q. Okay. But at the time of the shooting in this  
12 case, they were both still pending?

13 A. I don't know if it was before or after they  
14 were pending, but around that time period I had those two  
15 cases.

16 Q. And are these the same charges you testified  
17 about earlier in the beginning of the deposition?

18 A. Can you repeat the question?

19 Q. The gun and the drug charge you just told me  
20 about, are those the same ones you testified about earlier in  
21 the deposition?

22 A. Yes.

23 Q. Okay, so I won't need to ask you a hundred  
24 questions about all that. And are those -- is the sentence  
25 you are currently serving now related to those charges?

1 A. No.

2 Q. No?

3 A. What I would say, you know, other than the  
4 violation of probation, I guess they used that. I'm not sure.

5 Q. Okay. I think counsel also asked you earlier  
6 if you ever wore glasses, and I believe you testified that you  
7 have not; is that correct?

8 A. Correct.

9 Q. Do you know whether you've ever needed glasses?

10 A. Not that I know of. I don't -- I don't -- I  
11 ain't never needed glasses.

12 Q. Okay. And you testified earlier that on the  
13 day of the shooting you had smoked some marijuana earlier,  
14 beforehand. And I'm wondering did any of the officers ever  
15 ask you about that, whether you had, you know, done any drugs  
16 that day?

17 A. I believe so.

18 Q. Okay. And do you remember what your response  
19 was?

20 A. Yeah. We were smoking in the car when it  
21 happened.

22 Q. So you did tell them that. They would have  
23 known that?

24 A. Yes.

25 Q. I just have one other question about, you know,

1 the scene of the shooting. And I understand you were in the  
2 passenger seat at the time. Is that correct?

3 A. Yes.

4 Q. And Macho was driving?

5 A. Yes.

6 Q. And so the other car, you said, pulled up on  
7 your left-hand side?

8 A. Yes.

9 Q. So is it true that the car that the shooter was  
10 in was closer to Macho than it was to you?

11 A. Yes.

12 Q. Okay. And then I think I'm done, let me just  
13 take one minute to look at my notes real quick, okay?

14 (Documents reviewed by counsel.)

15 Q. I guess I have one other quick question, which  
16 is, were you ever -- I'm trying to think of a good way to  
17 phrase this. Were you promised anything in exchange for your  
18 testimony in the Thomas Sierra case?

19 A. No.

20 Q. No? And so did your testimony in that case in  
21 any way impact on the criminal charges that were pending  
22 against you at the time?

23 A. Not that I know of.

24 Q. Okay. So the police, like, the state's  
25 attorney, or the police didn't, you know, see your criminal

1 case, seek your cooperation in the Thomas Sierra case?

2 A. Well, I went to trial on my drug case.

3 Q. Okay.

4 A. I got found guilty.

5 Q. Okay.

6 A. And the other charge, which is the gun charge I  
7 had pending, I had to sit it out, either go to trial or plead  
8 out. And at that point I did almost a month in jail until I  
9 said I'm going to plead out.

10 Q. Okay. And then once you pled on that, was that  
11 charge -- like, did you just plead to time served?

12 A. I'm not sure if it was time served, but I know  
13 they ran them together and gave me the probation.

14 Q. Okay. Okay. I don't think I have anything  
15 else. Do you, Christina?

16 MS. WHITE: I'm just going to ask one more question.

17  
18 REDIRECT EXAMINATION

19 BY MS. WHITE:

20 Q. It's kind of one I forgot to ask at the end of  
21 mine and one that goes along with something she asked you  
22 about. Miss Mazur talked to you about the officer showing you  
23 the pictures and you made the identification. Do you recall  
24 talking to her about that?

25 A. Yes.

1 Q. Okay. Well, let me start with this. My  
2 question at the end of my testimony that I wanted to ask you  
3 was after we have sat here today for a couple of hours now and  
4 discussed all this, has anything else kind of shaken loose in  
5 your memory that you didn't testify to earlier today that  
6 maybe now you remember now that you have talked about it?

7 A. No.

8 Q. Okay. I think you testified, you know, with me  
9 that you really didn't have too much memory about the  
10 photographs. Then with Miss Mazur you testified you remember  
11 he gave you a bunch of photographs at one time. Correct?

12 A. Yes.

13 Q. And that they were laid out in front of you.  
14 Correct?

15 A. Yes.

16 Q. Is there anything else you can remember about  
17 viewing the photographs besides that?

18 A. I just remember him going and grabbing bundles  
19 of pictures and --

20 Q. Was that at the same time that you were looking  
21 at the albums?

22 A. I'm not sure if it was at that point or at a  
23 different point. But I remember him just taking bundles and  
24 bundles and bundles of pictures.

25 Q. So he could have handed you the bundles while



1 you were looking at the albums, or it could have been on a  
2 separate occasion. Correct?

3 A. Yes, correct.

4 Q. And she also talked to you about how many times  
5 you had went to the police station. Correct?

6 A. Yes.

7 Q. And you testified today that you don't really  
8 remember how many times you went to the police station.  
9 Correct?

10 A. Correct.

11 Q. But every time you did talk to the police you  
12 were telling them the truth; is that correct?

13 A. That's correct.

14 Q. And every time you did give testimony, you gave  
15 truthful testimony. Correct?

16 A. Yes, correct.

17 Q. And we have already gone through this, but to  
18 the extent that you gave the testimony closer to the time of  
19 the incident, your memory was more likely stronger when you  
20 gave that testimony then. Correct?

21 A. Correct.

22 Q. And so in the places where you maybe didn't  
23 remember or your testimony today conflicts with testimony you  
24 gave in the past, it's more likely your testimony in the past  
25 is more accurate. Correct?

1           A.     Yes.

2           Q.     That's all the questions I have. Ms. Mazur, do  
3 you have any other follow-up from what we just discussed?

4           MS. MAZUR:   Nope.

5           MS. WHITE:   Okay. I think we are done. Are you  
6 done. Ms. Mazur?

7           MS. MAZUR:   Yes.

8           MS. WHITE:   Okay. One thing left we have to talk  
9 about. I promise this is the easiest one all day.

10          THE WITNESS:   Okay.

11          MS. WHITE:   You see she's been over there typing  
12 everything while we've been talking? When she's done she's  
13 going to go back and put that all into a transcript. When she  
14 does that, you have the opportunity, if you'd like, to receive  
15 a copy of the transcript. It will kind of look like this  
16 (indicating). You can look it over and read it and make sure  
17 it's accurate. You can't change any of your answers.  
18 However, if she has a misspelling or maybe misunderstood the  
19 way you pronounced something, you can suggest a change to it.  
20 But again, you cannot change the substance of what you  
21 testified to here today.

22                 You can opt to do that, or you can waive that right  
23 and just trust she's taking everything down accurately, in  
24 which case you will be done here. The choice is totally  
25 yours. Which would you like to do?

1 THE WITNESS: Umm, what's my use for the  
2 transcripts?

3 MS. WHITE: I couldn't tell you what you would use  
4 the transcript for. All you, for our purpose, all you would  
5 be doing is looking it over and make sure she was accurate in  
6 typing it down. And then, you know, mail it back and say yes,  
7 it's accurate or maybe these are changes I have.

8 I can't really advise you which way to do it. Some  
9 people like to do it, and some people are just happy to be  
10 done with it. It's really your call.

11 THE WITNESS: I guess she can mail it.

12 MS. WHITE: Okay, so that means you are going to  
13 reserve signature, meaning reserving the right to get the  
14 transcript, read it and sign it. Okay.

15 Liz, then I think we are all done.

16 MS. MAZUR: Okay.

17 THE WITNESS: I have some questions.

18 MS. WHITE: Well, unfortunately today we can't  
19 answer questions. So -- is it just questions about how you  
20 would receive the transcript? Or is it more questions about  
21 the case?

22 THE WITNESS: It's about the case.

23 MS. WHITE: Okay. Well, let's go off the record.  
24 Liz, can we go off the record?

25 MS. MAZUR: Sure.

1 MS. WHITE: Okay, let's go ahead and go off the  
2 record.

3 (Off-the-record discussion.)

4 (Deposition concluded at 11:38 a.m.)

INDEX OF WITNESS, ALBERTO RODRIGUEZ

<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
3 (White)	88 (Mazur)	95 (White)	

INDEX OF EXHIBITS

<u>Description</u>	<u>Marked</u>
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